IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

DATE OF DECISION:30.11.2006

LPA NO.848 of 1996

Harbant Singh and others ...APPELLANTS

VERSUS

The State of Punjab and others ...RESPONDENTS

CORAM: HON'BLE CHIEF JUSTICE
HON'BLE MR. JUSTICE S.S.NIJJAR

PRESENT: Mr.D.S.Patwalia, Advocate,
Mr.H.N.Mehtani, Advocate
Mr.Vikrant Oberio,Advocate
for the appellants

Mr.Sanjeev Sharma, Additional Advocate General, Punjab.

Mr.Girish Agnihotri, Advocate for respondents no.4,8, & 11.

VIJENDER JAIN, CJ (Oral)

The present LPA filed by the appellants arises out of the judgment dated 25.1.1996 rendered by the learned Single Judge in CWP No. 10212 of 1991.

In the aforesaid writ petition, the petitioners prayed for the issuance of directions to the official respondents to promote the petitioners as Agriculture Inspectors (re-designated as Agriculture Development Officers) with effect from the dates their juniors were promoted by declaring that the conditions of eligibility for requirement of passing the Agriculture Sub

Inspectors' Traning Course, as illegal and void.

The appellants were serving as an Agriculture Sub Inspectors in the Agriculture Department of the State of Punjab. They had completed almost 20 years of service and two of them, namely, Harbant Singh and Mohinder Singh had completed about 35 years of service. Despite the appellants having completed 20 to 35 years of service, they were not being considered for promotion to the post of Agriculture Inspectors (Agriculture Development Officers) which amounted to discrimination against them. It was submitted that para (e) of the Instructions circulated by the government vide letter dated 19.1.1983 requiring the passing of Agriculture Sub Inspectors' Training Course as a condition for promotion to the post of Agriculture Inspectors was arbitrary and violative of Articles 14 and 16 of the Constitution of India. The contention as raised by the appellants having been rejected by the learned Single Judge vide his impugned judgment, they have filed the present LPA.

Mr.D.S.Patwalia, learned counsel appearing for the appellants, except appellant no.4 has contended that the condition of requiring the passing of Agriculture Sub Inspectors' Training Course for promotion as Agriculture Inspectors (Agriculture Development Officers) was introduced subsequently and that violates Articles 14 and 16 of the Constitution of India. He has contended that the appellants had already put in more than 30 years service and on the basis of that, those who have not undergone the Agriculture Sub Inspector' 'Training Course, ought not to have been denied promotion. Learned counsel has also contended that the post was inter-changeable and the appellants have already had the requisite experience and on that ground also has assailed the findings of the learned Single Judge.

Learned counsel appearing for appellant no.4-Ram Pal Singh has further contended that in similar circumstances, appellant no.4 had a diploma in Agriculture Training Course and on the basis of such a diploma, in CWP No.969 of 1987 (Surjit Singh v. State of Punjab and Another), a learned Single Judge of this Court had allowed the writ petition.

Learned counsel appearing for the respondents has contended that the order passed by the learned Single Judge is legal and valid. In fact, the Director Agriculture, Punjab had recommended for making a provision for promotion of Agriculture Sub Inspectors to the post of Agriculture Inspectors (Agriculture Development Officers). The State recommendation was subject to the condition that only those matriculate Sub Inspectors should be promoted as Agriculture Inspectors (Agriculture Development Officers) who had passed the Agriculture Sub Inspectors' Training Course. Besides a selection be made for the purposes of promotion. The instructions issued by the Government on 19.1.1983 are stated to be valid because the minimum qualification for recruitment to the post of Agriculture Inspectors (Agriculture Development Officers) is B.Sc. (Agriculture) which a candidate acquires after four years comprehensive study of specialized subjects. Therefore, the requirement of one year Training Course for Agriculture Sub Inspectors to be eligible for consideration of promotion as Agriculture Inspectors (Agriculture Sub Inspectors) does not suffer from any illegality. No junior to the appellants who does not fulfil the conditions provided in the letter dated 19.1.1983, has been promoted.

We have given our thoughtful consideration to the arguments advanced by the learned counsel for the parties.

Once a condition for the post of Agriculture Inspectors was

introduced and subsequently the appellants did not have any training, they cannot claim any right to promotion. In the absence of a right which did not vest in the appellants, we do not think that the appellants are right in saying that there has been a violation of their right for promotion. For making such a grievance, a foundation has to be laid by the appellants of a right to the post and to promotion. In the absence of such a situation, the argument of learned counsel for the appellants fails.

With regard to the submission of Shri H.N.Mehtani, learned counsel appearing for appellant no.2, Surjit Singh's case (supra) is of no help. It was contended before us that the State did not file any appeal in the said matter. If the State has not filed any appeal, we may not disturb the finding of the impugned judgment. However, one wrong cannot perpetuate another wrong. If appellant no.4 had already a diploma, that too also in Agriculture, for six months, whereas the requirements for the training course was for one year in case of Agriculture Sub Inspectors, the case of appellant no.4 would also be squarely covered by what we have stated above.

In view of the above, we find no merit in this appeal and the same is dismissed.

(VIJENDER JAIN)
CHIEF JUSTICE

(S.S.NIJJAR)
JUDGE

30.11.2006
nk/MFK

To be reported.